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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/829,159

04/22/2004

Hiroshi Chiba

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10/19/2005

OLIFF & BERRIDGE, PLC

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ALEXANDRIA, VA 22320

EXAMINER

MATHEWS, ALAN A

ART UNIT

PAPER NUMBER

2851

DATE MAILED: 10/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/829,159	<b>Applicant(s)</b> CHIBA, HIROSHI	
	<b>Examiner</b> Alan A. Mathews	<b>Art Unit</b> 2851	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-50 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-50 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☒ Certified copies of the priority documents have been received in Application No. 08/581,016.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>4/22/04 &amp; 5/26/04</u> . | 6) <input type="checkbox"/> Other: ____.  |

## DETAILED ACTION

### *Double Patenting*

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1-15 and 17-50 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1- 44 of U.S. Patent No. 6,268,903.

Although the conflicting claims are not identical, they are not patentably distinct from each other because all the steps and/or elements recited in claims 1-15, 17-50 of the instant application are disclosed in claims 1- 44 of U.S. Patent No. 6,268,903.

3. Claim 16 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1- 44 of U.S. Patent No. 6,268,903 in view of Jeong et al. (U. S. Patent No. 5,303,001). Claims 1- 44 of U.S. Patent No. 6,268,903 discloses the invention except for disclosing coating an **anti-reflective** film on the optical surface (i.e. using

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an antireflective film). It is noted that the term "distortion" and aberration are considered to mean the same thing. Jeong et al. discloses in column 7, lines 47-56, using an antireflective film for elements in a projection optical device. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to provide the claims of U.S. Patent No. 6,268,903 with an antireflective coating on the correction element in view of Jeong et al. for the purpose of improving the optical characteristics of the correction element and thus producing a better final product.

4. Claims 1-15 and 17-50 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-13 of U.S. Patent No. 6,377,333. Although the conflicting claims are not identical, they are not patentably distinct from each other because all the steps and elements in claims 1-15 and 17-50 of the instant application are disclosed in claims 1-13 of U.S. Patent No. 6,377,333.

5. Claim 16 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-13 of U.S. Patent No. 6,377,333 in view of Jeong et al. (U. S. Patent No. 5,303,001). Claims 1-13 of U.S. Patent No. 6,377,333 discloses the invention except for disclosing coating an **anti-reflective** film on the optical surface (i.e. using an antireflective film). Jeong et al. discloses in column 7, lines 47-56, using an antireflective film for elements in a projection optical device. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to provide the claims of U.S. Patent No. 6,377,333 with an antireflective coating on the correction element in view of Jeong et

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al. for the purpose of improving the optical characteristics of the correction element and thus producing a better final product.

***Allowable Subject Matter***

6. Claims 1-50 appear allowable subject to filing a proper terminal disclaimer.

***Conclusion***

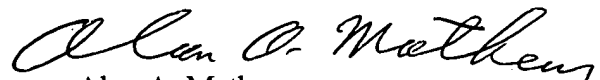
7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents cited in the PTO-1449 are cited for the same reasons they were cited in Applicant's IDS filed April 22, 2005, and May 26, 2005.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alan A. Mathews whose telephone number is (571) 272-2123. The examiner can normally be reached on Monday through Friday from 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy Nguyen can be reached on (571) 272-2258. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Alan A. Mathews  
Primary Examiner  
Art Unit 2851

AM